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SACRAMENTO COURTS
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Attorneys for Plaintiff

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

FAIR POLITICAL PRACTICES)	Case No.:	01AS05934
COMMISSION, a state agency,)	STIPULATION FOR ENTRY OF	
Plaintiff,)	JUDGMENT	
vs.)	(IN FAVOR OF PLAINTIFF AGAINST	
JANE HARMAN, JANE HARMAN FOR)	DEFENDANTS JANE HARMAN, JANE	
GOVERNOR and ROBERT B. BURKE,)	HARMAN FOR GOVERNOR and ROBERT	
Defendants.)	B. BURKE)	

Plaintiff, FAIR POLITICAL PRACTICES COMMISSION, a state agency, by its attorneys, and Defendants, Jane Harman, Jane Harman for Governor, and Robert B. Burke, Treasurer, enter into this stipulation to resolve all factual and legal issues pertaining to the complaint for civil penalties filed herewith.

It is stipulated by and between the parties as follows:

1 The complaint on file in this action was properly filed and served on Defendants Jane
2 Harman, Jane Harman for Governor and Robert B. Burke.

3 Jurisdiction of the subject matter and of the parties to this action and venue are properly
4 in Sacramento Superior Court. The complaint states two causes of action against Defendants
5 Jane Harman, Jane Harman for Governor and Robert B. Burke, and any defects in the complaint
6 are expressly waived.

7 The Court will enter judgment in this action, pursuant to the stipulation, on request of
8 Plaintiff, Fair Political Practices Commission, without notice to Defendants Jane Harman, Jane
9 Harman for Governor and Robert B. Burke.

10 The Fair Political Practices Commission and Defendants Jane Harman, Jane Harman for
11 Governor and Robert B. Burke, agree to enter this stipulation to resolve all factual and legal
12 issues raised in this matter, and to reach a final disposition with respect to these Defendants
13 without the necessity of holding a civil trial to determine their liability.

14 Defendants Jane Harman, Jane Harman for Governor and Robert B. Burke understand,
15 and hereby knowingly and voluntarily waive, any and all procedural rights that they could have
16 exercised if this settlement had not been entered into, including, but not limited to, their right to
17 civil discovery, to appear personally at any civil trial held in this matter, to confront and cross-
18 examine witnesses testifying at the civil trial, to present evidence, including the testimony of
19 witnesses, and to have the trial presided over by an impartial judge, and heard and decided by a
20 jury.

21 22 **ENTRY OF JUDGMENT**

23 For the violations of the Political Reform Act admitted herein, Plaintiff Fair Political
24 Practices Commission and Defendants Jane Harman, Jane Harman for Governor and Robert B.
25 Burke, stipulate that a final judgment be issued and entered in the form of the order attached

1 hereto and made a part hereof as “Exhibit “A,” against Defendants Jane Harman, Jane Harman
2 for Governor and Robert B. Burke, and in favor of Plaintiff for a monetary penalty of sixty
3 thousand dollars (\$60,000.00).

4 The final judgment may be signed by any judge of the Superior Court of the State of
5 California for the County of Sacramento, and entered by the clerk upon application of any party
6 without notice.

7 Defendants Jane Harman, Jane Harman for Governor and Robert B. Burke further
8 stipulate and agree to pay any court-appearance fees required for the filing of this civil
9 stipulation.

10
11 **STIPULATED STATEMENT OF LAW AND FACTS**

12
13 **I. THE PARTIES AND BACKGROUND INFORMATION.**

14 Plaintiff, Fair Political Practices Commission (the “Commission”), is a state agency
15 created by the Political Reform Act of 1974 (the “Act”). The Commission has the primary
16 responsibility for the impartial, effective administration and implementation of the Act.
17 (Government Code Section 83111.) Pursuant to Government Code Section 91001, subdivision
18 (b), the Commission is the civil prosecutor for matters involving state election campaigns, and is
19 authorized to maintain this action under Government Code Sections 91001, subdivision (b), and
20 91004.

21 Defendant Jane Harman was a “candidate,” as defined by Government Code Section
22 82007, for the office of Governor of the State of California in the 1998 primary election. At all
23 relevant times, Defendant Jane Harman for Governor was a recipient committee, as that term is
24 defined in Government Code Section 82013, subdivision (a), and was the controlled committee
25 of Jane Harman, as that term is defined in Government Code Section 82016. Defendant Robert
B. Burke was the treasurer of Jane Harman for Governor from May 21, 1998 to the present.

1
2 **II. SUMMARY OF THE LAW.**

3 Government Code Section 81002, subdivision (a), provides that one of the purposes of
4 the Political Reform Act is to ensure that receipts and expenditures in election campaigns are
5 fully and truthfully disclosed, in order that the voters may be fully informed and improper
6 practices may be inhibited. The Act should be liberally construed to achieve its purpose.
7 (Government Code Section 81003.) In order to further this end, the Act provides a
8 comprehensive scheme of campaign disclosure. (Government Code Section 84200, *et seq.*)
9

10 **A. CIVIL ENFORCEMENT PROVISIONS.**

11 Pursuant to Government Code Section 91004, any person who intentionally or
12 negligently violates any of the reporting requirements of the Act shall be liable in a civil action
13 for an amount not more than the amount or value not properly reported. Persons that violate
14 Government Code Sections 84203, 84211 and 84303, are liable in a civil action pursuant to
15 Government Code Section 91004.
16
17

18 **B. CAMPAIGN DISCLOSURE.**

19 Government Code Section 81002, subdivision (a), provides that one of the purposes of
20 the Political Reform Act is to ensure that receipts and expenditures in election campaigns are
21 fully and truthfully disclosed, in order that the voters may be fully informed and improper
22 practices may be inhibited.
23

24 To facilitate the goals of complete and truthful disclosure of receipts and expenditures,
25 the Political Reform Act includes a comprehensive scheme of campaign finance disclosure.
(Government Code section 84200, *et seq.*) Pursuant to Government Code Sections 84100 and

1 81004, subdivision (b), and Title 2, California Code of Regulations, Section 18427, subdivision
2 (a), it is the duty of a committee's treasurer to ensure compliance with all of the requirements of
3 the Political Reform Act concerning the receipt, expenditure and reporting of campaign funds.

4 Under Government Code Sections 82015, subdivision (a), and 82044, a loan to a
5 committee constitutes a contribution to that committee. A late contribution report must be filed
6 by a candidate or committee which makes or receives a contribution of one thousand dollars or
7 more, if the contribution is made, or received, before the date of the election in question, but
8 after the closing date of the last campaign statement required to be filed before the election.
9 (Government Code Sections 82036 and 84203.) For the June 2, 1998 primary election, the late
10 reporting period began on May 17, 1998, and ended on June 1, 1998. Government Code Section
11 84203, subdivision (b), requires the recipient to make the report within twenty-four hours of
12 receipt of the contribution, by either facsimile transmission, telegram, guaranteed overnight mail
13 through the United States Postal Service, or personal delivery. The late contribution report filed
14 by the recipient of the late contribution must disclose his or her full name and street address, and
15 the date and amount of the late contribution. The report must also disclose the full name of the
16 contributor, his or her street address, occupation, and the name of his or her employer, or if self-
17 employed, the name of the business. (Government Code Section 84203.)

18 An "expenditure" is a payment, forgiveness of a loan, a payment by a third party, or an
19 enforceable promise to make a payment, unless it is clear from the surrounding circumstances
20 that it is not made for political purposes. An expenditure is made on the date the payment is
21 made or on the date consideration, if any, is received, whichever is earlier. (Government Code
22 Section 82025 and Title 2, California Code of Regulations, Section 18225, subdivision (a).)

23 At all relevant times, Government Code Section 84211, subdivision (j), provided that for
24 each person to whom an expenditure of one hundred dollars or more has been made during the
25 period covered by a campaign statement, the statement must disclose his or her full name and

1 street address, the amount of each expenditure, and a brief description of the consideration for
2 which each expenditure was made.

3 Expenditures made by an agent or independent contractor, on behalf of, or for the benefit
4 of any candidate or committee must be reported by the candidate or committee as if the
5 expenditure were made directly by the candidate or committee. (Government Code Sections
6 84211, subdivision (j)(6), and 84303.) These are commonly referred to as “subvendor”
7 expenditures. The requirement to report subvendors is necessary to prevent campaigns from
8 concealing actual payees and amounts of expenditures through the use of an agent. These
9 subvendor expenditures are to be disclosed on either Schedule E or G of the campaign statement.

10 Expenditures by an agent, that must be reported, include expenditures for advertising
11 time and space. (Title 2, California Code of Regulations, Section 18431, subdivision (a)(2)(B).)

12 13 **III. SUMMARY OF THE FACTS.**

14 During January 1, 1998 through June 30, 1998, Jane Harman for Governor raised and
15 spent approximately \$16.2 million. The Franchise Tax Board conducted an audit of the Jane
16 Harman for Governor committee covering the first half of 1998, and found violations of the
17 Political Reform Act including the failure to timely file late contribution reports and the failure
18 to itemize subvendor information.

19 20 **A. FIRST CAUSE OF ACTION.**

21 On May 21, 1998, candidate Jane Harman, and her spouse, loaned \$1.6 million to the
22 Jane Harman for Governor committee, but failed to timely disclose this contribution on a late
23 contribution report. There is no evidence that the candidate was aware that her committee’s
24 professional staff had failed to file this late contribution report.
25

1 On May 26, 1998, Defendants Jane Harman and Jane Harman for Governor received a
2 contribution from Smith Bagley, in the amount of two thousand dollars, but failed to timely
3 disclose this contribution on a late contribution report.

4 On May 29, 1998, Defendants Jane Harman and Jane Harman for Governor received a
5 contribution from Thomas E. Gallagher, in the amount of five thousand dollars, but failed to
6 timely disclose this contribution on a late contribution report.

7 During the period of May 17, 1998 to June 1, 1998, Defendants Jane Harman and Jane
8 Harman for Governor timely filed late contribution reports disclosing seventy-three other
9 campaign contributions totaling \$331,489.

10 By failing to timely file late contribution reports, Defendants Jane Harman, Jane Harman
11 for Governor and Robert B. Burke violated Government Code Section 84203.

12
13 **B. SECOND CAUSE OF ACTION.**

14 For the period of January 1, 1998 through May 16, 1998, Defendants Jane Harman, Jane
15 Harman for Governor, and Robert B. Burke, timely disclosed subvendor information on reported
16 expenditures totaling approximately \$9.7 million.

17 On their original campaign filing of August 5, 1998, for May 17, 1998 through June 30,
18 1998, Defendants Jane Harman, Jane Harman for Governor, and Robert B. Burke, failed to
19 disclose any itemized subvendor information with respect to their reported expenditures.

20 By failing to disclose any itemized subvendor information for the reporting period of
21 May 17, 1998 through June 30, 1998, Defendants Jane Harman, Jane Harman for Governor, and
22 Robert B. Burke, failed to timely disclose required itemized information regarding one hundred
23 and eighty-four (184) subvendor payments totaling \$3,408,387.53.

24 On May 25, 2001, Defendants Jane Harman, Jane Harman for Governor, and Robert B.
25 Burke filed amended campaign statements disclosing the previously non-itemized subvendor
payments totaling \$3,408,387.53.

1 By failing to timely itemize information regarding subvendor payments totaling
2 \$3,408,387.53 on their campaign statements, Defendants Jane Harman, Jane Harman for
3 Governor and Robert B. Burke violated Government Code Sections 84211, subdivision (j)(6) and
4 84303.

6 **CONCLUSION**

7 Judgment shall be entered against Defendants Jane Harman, Jane Harman for Governor,
8 and Robert B. Burke, and in favor of Plaintiff, Fair Political Practices Commission, in the total
9 amount of sixty thousand dollars (\$60,000.00).

10 IT IS SO STIPULATED.

11 Dated: September 28, 2001.

By:


Jane Harman

13 Dated: September ___, 2001.

By:

Robert B. Burke, Treasurer, for
Jane Harman for Governor

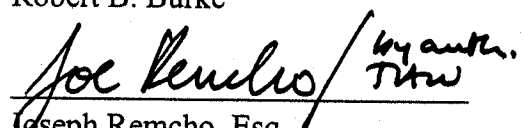
16 Dated: September ___, 2001.

By:

Robert B. Burke

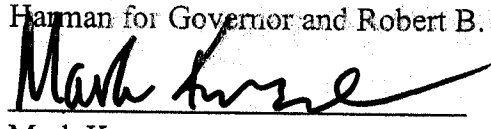
18 Dated: September ___, 2001.

By:

 by auth.
TTRW
Joseph Remcho, Esq.
Remcho, Johansen & Purcell
Attorney for Defendants Jane Harman, Jane
Harman for Governor and Robert B. Burke


21 Dated: October 1, 2001.

By:


Mark Krausse
Executive Director
Fair Political Practices Commission

24 Dated: October 1, 2001.

By:


Mark R. Soble
Senior Commission Counsel
Attorney for Plaintiff,
Fair Political Practices Commission

By failing to timely itemize information regarding subvendor payments totaling \$3,408,387.53 on their campaign statements, Defendants Jane Harman, Jane Harman for Governor and Robert B. Burke violated Government Code Sections 84211, subdivision (j)(6) and 84303.

CONCLUSION

Judgment shall be entered against Defendants Jane Harman, Jane Harman for Governor, and Robert B. Burke, and in favor of Plaintiff, Fair Political Practices Commission, in the total amount of sixty thousand dollars (\$60,000.00).

IT IS SO STIPULATED.

Dated: September __, 2001.

By:

Jane Harman

Dated: September 28, 2001.

By:

Robert B. Burke, Treasurer, for
Jane Harman for Governor

Dated: September 28, 2001.

By:

Robert B. Burke

Dated: September __, 2001.

By:

Joseph Remcho, Esq.
Remcho, Johansen & Purcell
Attorney for Defendants Jane Harman, Jane
Harman for Governor and Robert B. Burke

Dated: October 1, 2001.

By:

Mark Krausse
Executive Director
Fair Political Practices Commission

Dated: October 1, 2001.

By:

Mark R. Soble
Senior Commission Counsel
Attorney for Plaintiff,
Fair Political Practices Commission